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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,834	09/19/2003	Bjorn Bjarc	P17551US2	6032
27045	7590	09/18/2006	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR C11 PLANO, TX 75024			VU, TUAN A	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,834

Applicant(s)

BJARE ET AL.

Examiner

Tuan A. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/19/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/10/04; 4/26/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the application filed 9/19/2003.

Claims 1-21 have been submitted for examination.

Information Disclosure Statement

2. The information disclosure statement filed 4/26/2004 is yet to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but some information referred to therein has not been considered.

Particularly, the 8 first listed items in the "Foreign Patent Documents" section of form 1449 have not been found as being provided with a copy according to the above compliance; and will be marked with a "NC" on the left hand column of this section.

Applicants is kindly urged to resubmit the copies of the above if need there is for Applicants to have the above documents considered.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

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ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 9, 10 and 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 10,359,772 (referred herein as '772).

Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following observations.

As per instant claim 9, '772 claim 10 also recites a wireless platform having software services including software services component, said services comprising at least one application programming interface for loading, installing, and running the application software in said wireless platform (or mobile terminal); said platform including a Plug-in module to extend functionality of mobile terminal platform via Open Platform API (i.e. via one interface).

Although '772 does not recite platform domain, there is recital that such wireless platform has service layer with API domain including plug-in module and Java execution domain. Hence, it would be obvious that the wireless platform be a domain for the services layer to become API domain or Java native domain, in order for the software component of the wireless domain make use of or interact with API domain or Plug-in module therein in order for the API interface to provide access and enable the software components or functionality of the above services to be executed by the Java domain or be extended by the plug-in layer.

As per instant claim 20, the subject matter therein corresponds to that of instant claim 9; therefore claim 20 would be also conflicting in an obvious manner with '772 claim 10 for the same reasons.

5. Claims 1, 10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. 10,664,618 (referred herein as '618).

As per instant claims 1 and 10, '618 claim 3 also recites a platform domain with software application interacting with an interface domain, wherein the software application entities of the platform domain (i.e. domain having software services components) are adapted to interact with the interface domain and a plug-in entity; the platform domain having a plug-in entity (re '618 claim 2) the plug-in entity adapted to extend the functionality of the platform domain. Claim 3 recites having a utility entity to make use of the interface domain and one or more of the application entities (or software components) and the reciting of this utility entity to make use of the application entities in said platform suggests that an software application utility is there to enable application software platform components to be accessed or run in said platform via the use of said this combined utility and interface entities. Although '618 claim 3 does not recite enabling software application software to be installed, loaded or run in said platform, it would have been obvious for one skill in the art to implement that utility entity such that this utility entity be used to access the software entities, load/install them and run them in the above platform in view of the combined inter-usage of interface and plug-in entities so to support the extending of the platform functionality via interfacing with the applications entities (see '618 claims 2-3).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites a system having a domain with software services component, an interface component for providing access to software functionality, for enabling application software to be loaded and run, and a plug-in software. Mere recital of an abstract domain along with software components without embodiment of such software (or its functionality) in terms of hardware support or computer readable media amounts to not having tangible support to carry out or actualize the software functionality. The claim for listing descriptive functional elements fails to reasonably convey as a whole that the claimed invention can yield a real-world result; that is, the recited software appear to be merely listed without being interacted by a hardware support in order to make the invention a practical application, i.e. not yielding a concrete, tangible and useful result.

The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a “useful, concrete, and tangible result” be accomplished. An “abstract idea” when practically applied is eligible for a patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a “useful, concrete and tangible result”.

The above claim does not amount to fulfilling the Practical Application Test requirement; and along with its dependent claims 2-8 is rejected for leading to non-statutory subject matter.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The reciting of ‘by downloading an application and/or one to several plug-ins’ does not make it very clear what has been downloaded in terms of ‘and/or one’. That is, it is indeterminate as to whether the following ‘one’ is an application or something else, in which case what would signify or implicate the use of the composite conjunction ‘and/or’ for such ‘one’ to be downloaded in the plug-in context. This incongruous limitation will be treated as ‘downloading one application to one plug-in’

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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11. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Stewart et al., USPubN: 2001/0039570 (hereinafter Stewart).

As per claim 1, Stewart discloses a system for extending and/or modifying functionality of a platform for a product, comprising:

a platform domain having a software services component (Web Application – Fig. 1; Application Services – Fig. 1) for providing functionality, and

an interface component having at least one interface for providing access to the functionality of the software services component (e.g. Collaboration, Workflow server – Fig. 1; Fig 16; *conversation mgmt, message handling* -Fig. 8) for enabling application domain software to be installed, loaded and run in said platform via said at least one interface (e.g. Fig. 17; para 0165-0170, pg. 11 – Note: *WebLogic* integration server using workflow server to communicate with client application via messages – e.g. for deploying networks, suppliers functions - reads on interface for enabling software to be installed and loaded onto client execution engine); and

plug-in software for use by the application software for extending and/or modifying the functionality of the software services component (e.g. routing functionality, content modification - para 0171-0187, pg. 11-12; *tailor the list* – para 0173, pg. 11) of the platform domain via the at least one interface.

As per claim 2, Stewart discloses wherein said at least one interface comprises an application programming interface (*interfaces* – para 0011, para 0075, 0078-0080, pg. 6; C-enabler *API* - para 0251, pg. 14).

As per claims 3-4, Stewart discloses wherein said plug-in software comprises software residing in a domain of said application software (para 0176, pg. 11 – Note: plug-in reads on

residing inside the application of the partners or users' machine in the chain of the E-commerce Workflow of the collaborative system – see para 0237, pg. 13, wherein modeling tool from C-space trading partners entails using plug-in to configure message design) and that uses the functionality of at least one of the platform domain and other plug-in software (para 0182, pg. 12);

wherein said plug-in software complies with a same paradigm as provided services (protocol --para 0184 pg. 12; Fig. 16; para 0191-0232 – Note: filtering/redefining of message using Protocol plug-in per partner application within the message-routing scheme reads on compliance of plug-in with *RosettaNet* or *XOCP* protocol) exported by said application programming interface.

As per claims 5-6, Stewart discloses wherein said provided services include one or more of component model compliance (para 0348, pg. 18), naming convention compliance (para 0302, pg. 16), undesired-event handling compliance (Fig. 9; para 0334, pg. 17) and message model compliance (Fig. 6; step 208-210, Fig. 7); wherein said message model includes a callback mode (*Asynchronous Message* - para 0330, pg. 17) and a full message mode (*Synchronous* - para 0328, pg. 17; Fig. 6; *RMI* - para 0170, pg. 11).

As per claims 7-8, Stewart discloses wherein said plug-in software includes a plurality of plug-in software modules (e.g. para 0171, 0174, 0183, pg. 11-12); wherein said plug-in software includes plug-in software defining a set of graphical objects and utilities for defining a look and feel of said platform (*tailor the list* – para 0173, pg. 11; para 0180-0181, pg. 12; *graphical design* - para 0237, pg. 13; *layout ...expanded later* - para 0103, pg. 8; *concurrent c-spaces* - para 0131, pg. 8 -- – Note: activities of trading partners as C-space owner in defining roles and

diagrams in a workflow model as in a browser-based modeling platform – see *browser*, para 0247, pg. 14 -- and configuring messages accordingly **read on** using plug-in modules inside the graphical design tool to modifying the model or the messaging requirements, and browser-based configuration further teaching integral browser plug-in for enabling as needed-basis runtime modification/enhancement of browser layout).

As per claim 9, Stewart discloses wherein said platform domain comprises a platform for a mobile terminal for a wireless telecommunications system (see para 0278, pg. 16).

As per claim 10, Stewart discloses a method for extending and/or modifying functionality of a platform for a product, comprising:

providing a platform domain having a software services component for providing functionality, and

an interface component having at least one interface for providing access to the functionality of the software services component for enabling application domain software to be installed, loaded and run in said platform via said at least one interface;

providing plug-in software together with the application software for extending and/or modifying the functionality of the software services component of the platform domain via the at least one interface; and

extending and/or modifying the functionality of the software services component via said plug-in software;

all of which limitations having been addressed in claim 1.

As per claims 11-15, these claims include respectively the subject matter of claims 3-6, and 8; hence incorporate the corresponding rejection as set forth therein.

As per claims 16-17, Stewart discloses enterprise wide collaboration among trading partner or C-space owners (see para 0164, pg. 11 – Note: each user of such federated model is a customer using the model process) having C-space instance for locally defining a workflow, hence discloses a modeling paradigm wherein any client in the WebLogic network can collaborate with a modeling step of extending and/or modifying the functionality is performed *by a customer* of a provider of said platform (see Fig. 13-16; para 0172, pg. 11; 0237, pg. 13); wherein said customer comprises an end user product manufacturer (*manufacturer* – para 0086, pg. 7).

As per claim 18, Stewart discloses C-space being made available to variety of users for extending and/or modifying the functionality, i.e. performed by a third party (e.g. para 0087, pg. 7) contracted to change the functionality.

As per claim 19, Stewart discloses adding or removing functionality to said software services component of said platform (e.g. para 0171, 0174, 0183, pg. 11-12).

As per claim 20, refer to claim 9

As per claim 21, Stewart discloses step of modifying the functionality is performed by downloading an application and/or one to several plug-ins (para 0172, pg. 11; 0182-0187, pg. 12
Note: data communicated to trading partners for these to use layer of plug-ins to customize or modify the message constructs, content/data reads on downloading an application to a plug-in).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tuan A Vu
Patent Examiner,
Art Unit 2193
September 13, 2006